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ZNR UUUUU ZZH
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FM AMEMBASSY ASHGABAT
TO RUEHC/SECSTATE WASHDC 4140
INFO RUCPDO/DEPT OF COMMERCE WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE
RUCNCIS/CIS COLLECTIVE
RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHAK/AMEMBASSY ANKARA 6176
RUEHBJ/AMEMBASSY BEIJING 3859
RUEHKO/AMEMBASSY TOKYO 3718
RUEHIT/AMCONSUL ISTANBUL 4420
RUCNDT/USMISSION USUN NEW YORK 1447
RHMCSUU/CDR USCENCOM MACDILL AFB FL
RUEHVEN/USMISSION USOSCE 4343
RUEAIIA/CIA WASHDC
RHEFDIA/DIA WASHDC
RHEHNSC/NSC WASHDC
RUEKJCS/SECDEF WASHDC
RUEKJCS/JOINT STAFF WASHDC

UNCLAS SECTION 01 OF 02 ASHGABAT 000131

SENSITIVE

SIPDIS

STATE FOR SCA/CEN

E.O. 12958: N/A

TAGS: [SMIG PHUM PGOV TX](#)

SUBJECT: TURKMENISTAN: NEW LAW ON STATE MIGRATION SERVICE

REF: 09 ASHGABAT 679

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11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: In late 2009, the Turkmen Government adopted a law governing the State Migration Service. Previously, the Migration Service's responsibilities were spelled out in a presidential resolution. The law provides a legal basis for the Migration Service's activities, as well as its goals, rights and obligations. The law prohibits the Migration Service from actions that would violate constitutionally guaranteed rights, but its authority was expanded to allow it to detain individuals, conduct quasi-judicial investigations and use force. While the new law sets standards that could increase the transparency of the Migration Service's actions, holding the agency accountable for violations will be a challenge for aggrieved parties. END SUMMARY.

13. (SBU) On November 28, 2009, the Government of Turkmenistan published the new Law on the Migration Service, specifically designed to regulate the State Migration Service's activities. The law states that "the Migration Service carries out its activities in a transparent manner, if doing so does not contradict legislation on the protection of human rights and individual freedoms, or on secrets protected under special laws." The law also provides that "any restriction of the rights and freedoms of citizens is allowed only on the basis of and in a manner allowed by the laws of Turkmenistan." Citizens detained and held in custody on suspicion of committing migration offenses are entitled to be informed by migration service staff about the reason for their detention.

14. (SBU) Turkmenistan's Constitution provides for equal rights of citizens, including freedom of movement (travel). The Migration Service law stipulates "respect for human rights, without discrimination on the basis of national traditions and customs, while dealing with migration issues" as one of the

Service's main goals. The law is silent on the issue of the constitutional right of citizens to travel abroad. Similarly, it does not include a requirement that citizens deprived of that right be informed of the reason.

¶5. (SBU) According to the law, the Migration Service now has the right to detain and hold individuals on suspicion of committing a migration offense in a temporary detention facility during interrogation. Its officers also have the right to use physical force to prevent and stop a violation of law, and to use legitimate force when detaining individuals who committed a migration crime. This expanded authority to conduct quasi-judicial investigations and use force transforms the Migration Service into a law enforcement agency. The law states that Cabinet of Ministers exercises control over activity of the Migration Service according to presidential instructions. The Office of Prosecutor General is responsible for overseeing implementation of the law.

¶6. (SBU) Among other areas of responsibility, the law stipulates that the Migration Service has authority to deal with trafficking in persons. In coordination with Cabinet of Ministers, the Service determines refugee status in Turkmenistan, registers refugees, issues refugee certificates and creates conditions for their voluntary return to their countries of residence. According to the law, Migration Service also issues certificates to stateless persons residing on the territory of Turkmenistan.

¶7. (SBU) COMMENT: While the new law was a necessary step towards transparency in the actions of the Migration Service, effective implementation and accountability will be needed to achieve positive change. One big black hole in the Migration

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Service's responsibilities involves citizens who are denied the right to travel abroad (reftel). Although by law such right is to be withheld only in limited cases, in practice the Migration Service cooperates with other government agencies to ban travel for many individuals. Neither the Migration Service nor any other government agency admit to this violation, the so-called "black list," which nonetheless indisputably exists. If the new law ends up simply codifying current practices, it will bring no transparency to a key aspect of the Migration Service's responsibilities. END COMMENT.

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